THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITON NO. 10269 OF 1997

DATED: 05-07-2006

BETWEEN:

B. Sujatha … Petitioner

And

Government of Andhra Pradesh
Rep.by its Chief Secretary,
A.P. Secretariat, Secretariat Buildings,
Hyderabad and two others

…Respondents

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ORDER:

Petitioner questions the proceedings of the Estate Officer of the Director of Insurance Medical Services dated 29-04-1997 in passing orders under Section 2(h) of A.P. Public Premises (Eviction of unauthorized occupants) Act, 1968 evicting the petitioner from the premises bearing Quarter No. B/3/5, E.S.I. Quarters, Sanathanagar, Hyderabad.

Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and perused the material available on record.

It is the case of the petitioner that she was appointed as a typist in the office of the Director of Insurance Medical Services Department, Hyderabad and the director allotted her a residential quarters bearing quarter No. B/3/5 at E.S.I. Quarters and accordingly, she was staying there by paying 30% of her basic pay towards rent including the electricity charges. Thereafter, her services were taken

by the Government vide G.O.Ms.No.5566, dated 29-11-1996 and she was appointed as typist in the Revenue Department, Secretariat. It is stated that the Insurance Medical Services Department also comes under the control of the Government of Andhra Pradesh and as she is the employee of the Government of Andhra Pradesh and presently working in Revenue Department, it cannot be said that her continuance in the said E.S.I. quarters is unauthorized. It is stated that a notice was issued by the third respondent under Section 4(1) of the Act, which is not applicable as she is an authorized occupant, but not unauthorized occupant.

It is further stated that she also gave a representation to the first respondent on 06-07-1996 for allotment of the Government quarter on out of turn basis at Yerramanjil or at Punjagutta area, but still the said representation has not been considered. It is stated that as her representation is not considered till date, she may be permitted to continue in the said premises.

A counter has been filed by the respondents stating that the petitioner previously worked in the office of the Director of Insurance Medical Services Department, A.P., Hyderabad and while she was working as a typist, she was allotted one E.S.I. quarter bearing quarter No. B/3/5 in the premises of E.S.I. Hospital, Sanathnagar and she occupied the said quarter on 02-12-1995. The said quarter was allotted pursuant to the application of the petitioner vide proceedings dated 01-12-1995 on the condition that the petitioner should vacate the quarter as and when ordered by the Superintendent, E.S.I. Hospital, Sanathnagar or on her transfer from the said department. Subsequently, the petitioner was appointed by way of recruitment by transfer to the post of typist-cum-assistant in the Revenue Department of the Secretariat. Accordingly, she was relieved on 27-12-1995 and she joined in the Secretariat in the Revenue Department. Thus, it is

stated that the petitioner is not at all belongs to the office of the Director of Insurance Medical Services, A.P., Hyderabad and therefore, eviction notice has been issued to the petitioner. Thereafter, petitioner requested to permit her to stay for three more months and the said request was considered. Again, the petitioner made another representation dated 25-04-1996 to permit her to stay for one more year and on the said representation, the Superintendent, E.S.I. Hospital vide his proceedings dated 29-04-1997 instructed the petitioner to vacate the quarter immediately due to her transfer to the Revenue Department, Secretariat. Prior to the issuance of eviction proceedings, Government appointed the 3rd respondent as Estate Officer, and the third respondent issued notice under Section 4(1) of the Act to the petitioner on 22-01-1997, for which an explanation was submitted and after considering the explanation, the impugned order has been passed under Section 5(1) of the Act. It is stated that the petitioner on her own accord was transferred to the Secretariat by way of appointment by transfer and therefore she ceased to be the employee of the Director of Insurance_Medical Services. Since the said quarters are meant for the employees working in the E.S.I. Hospital, and they are required to allot only to the employees working in the E.S.I. Hospital. As per the terms and conditions laid down for allotment of the staff quarters, the allottee has to vacate the quarter as and when ordered by the authorities or on her transfer from the said department or on her retirement. Thus, it is stated that the notice issued by the third respondent is legal and valid. It is further stated that there is an effective alternative remedy available under Section 9 of the Act by way of filing an appeal against the order passed under Section 5 of the Act and therefore, the writ petition is not maintainable.

Heard the contentions raised by both the parties.

There is no dispute that the Director of Insurance Medical

Services also comes within the definition of Government. The Government allotted various public premises to the local authorities, Corporations etc. The said E.S.I. quarters are meant for the employees working under the E.S.I. Corporation. Though the petitioner is Government employee, but she ceased to be the employee of the E.S.I. Corporation and therefore, the petitioner cannot be permitted to continue in the quarters meant for E.S.I. Corporation. Petitioner is entitled for allotment of any other Government quarter meant for such services working in the Secretariat.

In view of the aforesaid facts and circumstances of the case, I am of the opinion that after the transfer of the petitioner from the third respondent, she ceased to be an employee of the third respondent and therefore, she is in unauthorized occupation of the said quarter.

For the aforesaid reasons, I am of the opinion that it cannot be said that the order impugned under Section 5 of the Act is illegal or arbitrary. Hence, I do not see any merits in the writ petition and accordingly writ petition is dismissed. However, it is open for the petitioner to make an application to the second respondent for allotment of appropriate quarter. If any such application is made, respondents are directed to consider the same. The interim stay granted earlier stands vacated. No order as to costs.

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V. ESWARAIAH, J.

Dated: 05-07-2006
RNS